



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
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APR 09 2014

Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First St. NE, Room 1A
Washington, D.C. 20426

Reference Docket Nos. CP13-499; CP13-502-000; PF12-9-000

Dear Ms. Salas:

The U.S. Environmental Protection Agency has reviewed the draft environmental impact statement (DEIS) for the Constitution Pipeline and Wright Interconnect Projects (CEQ # 20140039). The proposed pipeline would be located from Susquehanna County, Pennsylvania to the existing Tennessee Gas Pipeline Company and Iroquois systems in Schoharie County, New York. The proposed compressor station would be located at the existing Wright Compressor Station in Schoharie County, New York. This review was conducted in accordance with Section 309 of the Clean Air Act, and the National Environmental Policy Act (NEPA).

The Constitution Pipeline project entails the construction and operation of 124.4 miles of new 30-inch-diameter natural gas pipeline and associated equipment and facilities in Pennsylvania and New York. Constitution also proposed to construct and operate two new metering and regulating (M&R) stations; two tie-ins, and 11 mainline valves; and would install a pig launcher and a pig receiver at the M&R stations. The Wright Interconnect Project would involve the construction and operation of new compressor facilities adjacent to as well as modifications to Iroquois' existing Wright Compressor Station. Iroquois' proposed expansion would be constructed completely within the property boundaries of the existing Wright Compressor Station. The proposed pipeline and interconnect projects would deliver up to 650,000 dekatherms per day (Dth/d) of natural gas supply from Susquehanna County, Pennsylvania ultimately to markets in New York and New England.

EPA has rated the DEIS EC-2 Environmental Concerns, Insufficient Information (see attached sheet) primarily due to the incomplete discussion of a collocated alternative on Route I-88, and lack of an upland forest plan, direct impacts from access roads to wetlands, slope stability analysis, indirect impacts from local sales of natural gas, and an incomplete general conformity applicability analysis. Our detailed comments are enclosed.

EPA does note Constitution's access to 24 percent (approximately 30 miles) of the project area has been denied. Therefore, the impacts reported in the DEIS may be higher than reported for many resources. This lack of information may necessitate supplements as this information becomes available.

Thank you for the opportunity to comment. If you have any questions regarding this review, please contact Lingard Knutson of my staff at (212) 637-3747.

Sincerely,

A handwritten signature in blue ink, reading "Judy-Ann Mitchell". The signature is fluid and cursive, with the first name "Judy-Ann" and the last name "Mitchell" clearly distinguishable.

Judy-Ann Mitchell, Chief
Sustainability and Multimedia Programs Branch

Enclosures

EPA's Technical Comments on the FERC's Draft Environmental Impact Statement
"Constitution Pipeline and Wright Interconnect Projects, February 2013"
April 7, 2014

Alternatives Analysis:

Section 3.4.1.2 discusses Alternative M, a route that would collocate the pipeline along I-88. EPA is concerned that collocating the pipeline along I-88 has not been fully evaluated. A meeting with New York State Department of Transportation (NYSDOT) is discussed, but no meeting minutes, or letter from NYSDOT is included in the DEIS identifying limitations on collocation. In fact, both NYSDOT and Federal Highways Administration (FHWA) have policies and regulations in place to work with applicants on collocation issues. EPA is not aware of a provision in the transportation regulations for locating a natural gas pipeline along an interstate highway only when no other feasible alternative exists. EPA recommends that FERC, Constitution, NYSDOT, FHWA, and the federal and state resource agencies meet to discuss this alternative fully.

Because of the importance of Alternative M in the possible avoidance of several environmental impacts, EPA recommends that maps of this alternative be made more clear, and delineate the relationship of the pipeline route to I-88 in more detail. It would be helpful if all the maps in the document identified roads to make it easier for the public to identify where the pipeline route is proposed.

"Environmental Hazards" is used several times in tables throughout the alternatives section. This should be defined.

Section 3.4.3.3 discusses minor route variations assessed for impacts on agricultural lands. All minor routes should have been included in the DEIS for review by the public and resource agencies.

Geology and Soils:

In the Executive Summary and Section 4, a Karst Mitigation Plan is mentioned. However, it is not available for review as part of the DEIS. Without it, the public and agencies are unable to ascertain whether Constitution's Karst Mitigation Plan will be protective of the environment. EPA also recommends that the environmental construction plan be available for review as part of the EIS or on FERC's website.

The formal slope stability analysis was not included in the DEIS. While FERC recommends that the analysis be completed prior to the completion of the Final EIS, this negates the ability of agency specialists and the public to review the analysis and comment on it. EPA concurs with comments by the United States Geological Survey that there is a need for better means to determine landslide susceptibility in the steep slope areas besides relying on ground inspections.

LIDAR imagery, tree structure and other means should be considered for finding old landslide scarps, scars, and slope failure areas.

Any site specific blasting plans should be included in the DEIS. EPA is very concerned that any blasting may change hydrology in the immediate area, which may impact wetlands.

Water:

The DEIS did not include any impacts on water bodies that may be caused by the construction and operation of workspaces. FERC has recommended that Constitution file a description of impacts and any proposed impact avoidance, minimization and mitigation measures for each waterbody that might be impacted by workspace construction. EPA reiterates that all reasonably foreseeable direct and cumulative impacts should be included in the DEIS, allowing them to be reviewed by the public and agencies.

Section 4.3.1.5 discusses the location of water supply wells and springs; however, Constitution has not completed locating all water wells and springs within 150 feet of the pipeline. Landowners and the state agencies should be apprised of this information within the DEIS.

Table 4.3.1-2 states that two water wells are within the boundaries of contractor yards. Specific best management practices and mitigation plans to protect those wells should be included in the DEIS.

Section 4.3.1.5 (Water Use and Quality) states that Constitution has agreed to provide expert field assessment of seeps and springs within 150 feet of construction workplaces to determine if construction activities could have an impact on the seeps and/or springs. This information should be in the DEIS and include whether the seeps or springs are part of a wetlands complex, and whether changes in flow rate or direction would impact wetlands.

Wetlands:

Constitution proposed to temporarily fill one wetland and permanently fill 13 wetlands (approximately 0.3 acre) for the purpose of constructing access roads. Neither the site specific plans for, nor the purpose of this action, was included in the DEIS.

Section 4.4.4 states that temporarily disturbed emergent and scrub-shrub wetland will be restored by seeding and mulching. Constitution should consider planting shrub saplings in scrub-shrub areas.

Section 4.4.5 states that offsite wetland mitigation is proposed to compensate for temporary impacts to forested wetland and for permanent impacts to forested and scrub-shrub. Mitigation will be a mixture of in-lieu fee credits and permittee-responsible mitigation. Constitution should consider restoring temporarily cleared forested wetland areas in the right-of-way by planting tree and shrub saplings.

Section 4.4.1.4 discusses that Constitution has not completed wetlands surveys for three contractor yards. While Constitution states that it will avoid any wetlands within or adjacent to the yards, the wetland delineations and identifications should have been included in the DEIS, along with avoidance or mitigation plans.

Wildlife and Vegetation:

It is EPA's understanding that the Endangered Species Act (ESA) surveys nor the consultation with the Fish and Wildlife Service (FWS) is complete. Discussions concerning surveys for the Northern Long-Eared Bat (*Myotis septentrionalis*) a candidate species for ESA listing, the bald eagle mitigation plan and the Upland Forest Mitigation Plan have not been finalized. The survey information, and more importantly, the Upland Forest Mitigation Plan should be included in the DEIS for review by the public and agencies. Without a mitigation plan, EPA is unable to assess the true direct impacts to trees from the proposed pipeline. EPA also recommends that FERC verify with FWS that fringe forest habitat is equivalent to interior forest habitat, as assumed in the DEIS.

It also appears that Constitution has not submitted "the remaining surveys for state-listed species that may be present in the pipeline project workspaces." Any surveys for state-listed species should have been included in the DEIS for public and agency review of impacts to wildlife.

The project will incur impacts on 439.7 acres of interior forest during construction, and 217.9 acres during operations. While FERC and Constitution appear to believe that interior forest is equivalent to fringe forest (as will be created by the pipeline easement) in terms of habitat to migratory birds and raptors, this assumption should be verified for this project, and a Habitat Equivalency Analysis (HEA) be completed for the loss of interior forest to migratory birds, bats and raptors. This could be a similar effort to the HEA for Mitigation of the Gateway West Transmission Line prepared by the Bureau of Land Management in June 2012. Forest fragmentation by both interstate and intrastate pipeline and other energy production facilities is increasing in the New York/Pennsylvania area (as evidenced by the list of pipeline projects near the proposed Constitution Pipeline in Table 4.13-1) and those cumulative impacts should be analyzed as well.

Pipeline easements through interior forests will also encourage the spread of invasive plant species into those areas. While Section 2.5.5 states that Constitution would perform monitoring for invasive plant species on at least an annual basis for three years following construction, the invasive plants will not stop germinating after three years. Continual mowing of the easement will keep the area disturbed encouraging the growth of invasives. FERC should require continuous invasive plant monitoring and removal for the life of the pipeline, or as long as the easement is present. Constitution should also be required to replant young native trees with a 4" diameter along the sides of the easement to slow invasive species growth and replenish trees taken down for construction purposes.

Section 4.5.1 states that Constitution should file a description of its proposed access roads leading to the two proposed meter stations prior to the end of the DEIS comment period. This information should have been included in the DEIS.

In Section 4.8.4.3, FERC should verify with the New York State Department of Environmental Conservation that tracts enrolled in various conservation programs will not be penalized by the construction of the Constitution pipeline through those lands.

EPA is also concerned that the loss of trees and intact forests will exacerbate climate change due to the loss of carbon sink.

Air:

The General Conformity applicability analysis (Table 4.11.1-4) indicates NO_x emissions just below the threshold level, however, there is no supporting documentation in the DEIS to determine how those emission levels were derived.

The calendar year(s) covered in Table 4.11.1-4 for the construction emissions should be clarified. General conformity is determined on a calendar year basis.

Supporting calculations and documentation should be provided to show how the NO_x and VOC emissions from construction in the general conformity applicability analysis were determined.

EPA recommends that construction emission mitigation options include the elimination of unnecessary idling at job sites and a commitment to use the cleanest available equipment, such as those meeting EPA's Tier 3 or Tier 4 nonroad emission standards.

Cumulative Impacts:

The DEIS states that besides executing binding precedent agreements for the entire proposed 650,000 Dth/d, Constitution has also entered into a Memorandum of Understanding with Leatherstocking Gas Company, LLC to allow Leatherstocking to interconnect with the proposed pipeline and deliver gas to homes and businesses within communities in Pennsylvania and New York. Leatherstocking would construct the necessary infrastructure. The document states "because the specifics of this infrastructure are unknown, impacts are discussed in a general sense where applicable below." However, the impacts are never mentioned again. Any construction or distribution of natural gas by Leatherstocking is an indirect effect of the Constitution pipeline, and any reasonably foreseeable impacts should be analyzed. This should include, but not be limited to, impacts to waterbodies, wetlands, land use, and housing growth.

General:

Section 2.2.1.3 states that "additional extra workspaces beyond those currently identified could be required during construction of the pipeline". We find it unsettling that Constitution, a partnering of Williams, a leading energy infrastructure company; Cabot Oil & Gas; Piedmont Natural Gas; and WGL Holdings, does not know what workspaces they will need to construct the proposed pipeline. All areas used for construction of this pipeline should be determined, analyzed for environmental impacts, and included in the DEIS.

Section 3.1.2.3 should be updated to include that in January 2013, the Bureau of Ocean Energy Management issued a request to determine whether there is competitive interest in leasing an area offshore New York that the New York Power Authority has proposed for developing offshore wind energy.

Section 4.2.3.3 and Table 4.2.3-1 state that 34.8 acres of prime farmland or farmland of statewide importance will be permanently impacted by access roads, however, Table 4.2.2-2 appears to indicate that only 22.8 acres will be permanently impacted. Explain this discrepancy.

SUMMARY OF RATING DEFINITIONS AND FOLLOW-UP ACTION

Environmental Impact of the Action

LO-Lack of Objections

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC-Environmental Concerns

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

EO-Environmental Objections

The EPA review has identified significant environmental impacts that must be avoided to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU-Environmentally Unsatisfactory

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of environmental quality, public health or welfare. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommend for referral to the Council on Environmental Quality (CEQ).

Adequacy of the Impact Statement

Category 1-Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2-Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

Category 3-Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analysis, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From: EPA Manual 1640, Policy and Procedures for the Review of Federal Actions Impacting the Environment. ↑